

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
OSCAR VIVALDO et al.,	:	
	:	
Plaintiffs,	:	14 Civ 2636 (GWG)
	:	
-v.-	:	
	:	<u>ORDER</u>
UNITED TALMUDICAL ACADEMY OF	:	
KIRYAS JOEL, INC et al.,	:	
Defendants.	:	
-----X		

GABRIEL W. GORENSTEIN, United States Magistrate Judge

A telephone conference to discuss the motion for approval is scheduled for August 31, 2017, at 4:00 p.m.¹

In advance of the conference, the Court asks that the parties set forth in greater detail an explanation of the risks of establishing liability and damages as to both sides. The material in the current papers on this topic — consisting of essentially two paragraphs (paragraphs beginning on page 24 and page 26 of the memorandum of law (Docket # 114)) — is meager and does not give a full explanation of the background of the case, the nature of the claims, or the risks to both sides. Any such supplement should be filed by letter on or before August 30, 2017.

The Court has the following additional questions that it hopes to discuss at the telephone conference (though the parties are free to submit responses/reactions in writing if they prefer):

1. The proposed settlement agreement (section III.C) states that a copy of the Notice form will be given to current workers. That is certainly acceptable but it is the Court's recollection that this provision is a substitute for a television and newspaper announcement that would have informed former employees to contact the claims

¹ At the above date and time, counsel are directed to place a call to the Court at (212) 805-4260 with all parties on the line. All counsel who intend to speak during the call must use a landline. Also, when addressing the Court, counsel must not use a speakerphone. If the call is arranged through a commercial communications service, counsel arranging the call may telephone chambers at the time of the conference and inform chambers of the telephone number and access code that may be used to dial into the call. Only a toll-free service should be used.

administrator. Thus, it was the Court's intention that current workers would also be given a flyer that encouraged them to provide the claims administrator number to former employees they may know to ensure that, if the former employees had not received a Notice and claim form, they learned how to get one. This flyer should make clear that the filing of claims will not affect the amount distributed to other employees (See also comment to Question 7 below).

2. Is it really the case that the class will include all individuals working for defendants through August 14, 2017? The Court had understood that new time clocks were installed months (or years) ago in all of defendants' facilities, and that anyone who was paid exclusively by the new time clocks would not be part of the class? If this is the case, does the class definition and the Notice not need to be revised?

3. Comments on the Notice:

Question 5: Change 2018 to 2008

Question 7:

add word "each" after \$7,500.

Why is the denominator of the equation not calculable now? Can the notice not inform the claimants how much each claimant will receive for each week of past work?

Question 9:

Change "If you stay in the class" to "If you return a claim form"?

With regard to footnote 1 of the memorandum of law, are persons who decline to return a claim form still releasing claims? If they are still in the class, how are they affected by the settlement? In other words, what is the effect of not returning a claim form?

Question 10:

Paragraph 2, Line 1: Change "you have the right to appear at" to "you have the right to request to speak at"

Paragraph 2, Line 7: Change "If you intend to appear at the Fairness Hearing" to "If you wish to speak at the Fairness Hearing to present your objection,"

Paragraph 2, Line 8: Change quotation to: "I want to state my objection to the Judge at the Fairness Hearing."

Paragraph 2, Line 9: Change "If you intend to appear at the Fairness Hearing through an attorney" to "If you wish to have an attorney at the Fairness Hearing present your objection"

Question 12: A date for the Fairness Hearing will be supplied, but the Notice can now be changed to reflect that it will take place in Courtroom 6-B.

Question 14:

Line 1: Delete "If you have not excluded yourself"

Line 3: Change "you may include your request to speak in your objection" to "see the instructions in Question 10"

Line 4: Change "Claim's" to "Claims"
Line 5: Change "Put a" to "Put at"

SO ORDERED.

Dated: August 25, 2017
New York, New York



GABRIEL W. CORENSTEIN
United States Magistrate Judge